

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

OLIVER PRICE,)	CASE NO. 1:07 CV 1393
(# A179-983))	
)	JUDGE JOHN R. ADAMS
Plaintiff,)	
)	
v.)	<u>MEMORANDUM OF OPINION</u>
)	
GERI M. SMITH,)	
)	
Defendant.)	

On May 14, 2007, plaintiff pro se Oliver Price filed this action against United States District Court Clerk of Court Geri M. Smith. The complaint asserts a violation of "due process per Federal Rules 4(A), 4.1(A) that the summons be issued forthwith upon the defendant." The claim refers to a recent case filed by the same plaintiff, Case No. 1:07 CV 801, which was summarily dismissed by Judge Ann Aldrich on April 2, 2007. For the reasons stated below, this action will be dismissed pursuant to 28 U.S.C. § 1915(e).

A district court is expressly required to dismiss any civil action filed by a prisoner seeking relief from a governmental officer or entity, as soon as possible after docketing, if the

court concludes that the complaint fails to state a claim upon which relief may be granted, or if the plaintiff seeks monetary relief from a defendant who is immune from such claim. 28 U.S.C. § 1915A; Siller v. Dean, No. 99-5323, 2000 WL 145167, at *2 (6th Cir. Feb. 1, 2000)

As a threshold matter, neither of the rules cited by plaintiff requires the Clerk to issue summonses forthwith. This court assumes plaintiff is referring to the corresponding rules found in the Ohio Rules of Civil Procedure, which do not apply to the federal courts. Further, 28 U.S.C. § 1915(e)(2) and 28 U.S.C. § 1915A explicitly provide for screening prisoner and/or in forma pauperis complaints prior to service of process. See also, McGore v. Wigglesworth, 114 F.3d 601, 608 (6th Cir. 1997).

Accordingly, this action will be dismissed under § 1915A. Further, the court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

Dated: May 18, 2007

/s/ John R. Adams
JOHN R. ADAMS
UNITED STATES DISTRICT JUDGE